

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of the Chief Financial Officer
Office of Revenue Analysis

NOTICE of GENERAL REAL PROPERTY TAX RATES AND
SPECIAL REAL PROPERTY TAX RATES
TAX YEAR 2008

I. Sum of Real Property Tax Rates

The Tax Year 2008 real property tax rates are the following:

2008 Proposed Real Property Tax Rates	
<u>Real Property Tax Class</u>	<u>Calculated Indexed Rate Per \$100 of Assessed Value</u>
Class One (owner and renter-occupied residential)	\$0.85
Class Two (commercial)	\$1.85
Class Three (vacant and abandoned)	\$5.00

II. Special Real Property Tax Rates

BOND ACT REQUIREMENTS
Certification of Debt Service Requirement

In Tax Year 2008, thirty-two percent (32%) of total real property tax collections, by class, shall be dedicated to the repayment of General Obligations Bonds. The recommended special real property tax rates by class for Tax Year 2007 are as follows:

2008 Special Real Property Tax Rates	
<u>Property Class</u>	<u>Real Property Special Tax Rate Per \$100 of Assessed Value</u>
Class One (owner and renter-occupied residential)	\$0.27
Class Two (commercial)	\$0.59
Class Three (vacant and abandoned)	\$1.60

COMMUNITY ACADEMY PUBLIC CHARTER SCHOOL (CAPCS)**NOTICE OF EXTENSION OF DEADLINE**

Community Academy Public Charter School hereby provides notice that the deadline for bid proposals for design build general contractor services has been extended until November 2, 2007. Contact Wesley Harvey at wesleyharvey@capcs.org for Bid documents or information.

BOARD OF ELECTIONS AND ETHICS
CERTIFICATION OF ANC/SMD VACANCIES

The District of Columbia Board of Elections and Ethics hereby gives notice that there is one vacancy in Advisory Neighborhood Commission office, certified pursuant to D.C. Official Code 1-309.06(d)(2); 2001 Ed.

VACANT: 3C01

Petition Circulation Period: **Monday, October 1, 2007 thru Monday, October 22, 2007**
Petition Challenge Period: **Thursday, October 25, 2007 thru Wednesday, October 31, 2007**

Candidates seeking the Office of Advisory Neighborhood Commissioner, or their representatives, may pick up nominating petitions from 8:30 am to 4:45 pm, Monday through Friday at the following location:

D.C. Board of Elections and Ethics
441 - 4th Street, NW, Room 250N
Washington, DC 20001

For more information, the public may call **727-2525**.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF THE ENVIRONMENT
NOTICE OF PERMIT ACTION**

Notice is hereby given that, pursuant to 40 CFR 51.61, D.C. Official Code § 2-505, and 20 DCMR 206, the Air Quality Division (AQD) of the District Department of the Environment (DDOE) located at 51 N Street, N.E., Washington, D.C., intends to issue a permit to Virginia Concrete Company, Inc. to operate a concrete mixing plant located at 2155 Queens Chapel Road, N.E., Washington, D.C.

The application for permit and the proposed renewal permit to operate a concrete mixing plant are available for public inspection at AQD and copies may be made between the hours of 8:15 a.m. and 4:45 p.m. Monday through Friday. Interested parties wishing to view these documents should provide their names, addresses, telephone numbers and affiliation, if any, to Abraham T. Hagos, at (202) 535-1354.

Interested persons may submit written comments within 30 days of publication of this notice. Comments should be addressed to Cecily Beall, Associate Director, AQD, 51 N Street, N.E., Washington, D.C. 20002. No written comments postmarked after October 29, 2007 will be accepted. The written comments must also include the person's name, telephone number, affiliation, if any, mailing address, and a statement outlining the air quality issues in dispute and any facts underscoring those air quality issues. All relevant comments will be considered in issuing the final permit. For more information, please contact Abraham T. Hagos, at (202) 535-1354.

EXECUTIVE OFFICE OF THE MAYOR
Serve DC

PUBLIC NOTICE

NOTICE OF FUNDING AVAILABILITY

DISTRICT OF COLUMBIA
COMMISSION ON NATIONAL AND COMMUNITY SERVICE

K-12 Learn and Serve America School-Based Grants

Notice: ATTENDANCE AT A TECHNICAL ASSISTANCE SESSION IS REQUIRED IN ORDER TO BE ELIGIBLE TO APPLY FOR THIS GRANT. SESSIONS ARE SCHEDULED FOR OCTOBER 17, 2007 FROM 5:00PM TO 7:00PM AND NOVEMBER 8, 2007 FROM 5:00PM TO 7:00PM AT ONE JUDICIARY SQUARE, 441 4TH STREET NW, WASHINGTON, DC, CONFERENCE ROOM NUMBER 1114. ADDITIONALLY, A TECHNICAL ASSISTANCE CONFERENCE CALL IS SCHEDULED FOR NOVEMBER 14, 2007 FROM 4:00PM-5:00PM (REGISTRATION REQUIRED).

Summary: Serve DC, the DC Commission on National and Community Service, announces the availability of K-12 Learn and Serve America School-Based funds for **grants up to \$14,000**. Learn and Serve America is a program of the Corporation for National and Community Service that creates opportunities for youth to participate in service-learning initiatives. Service-learning is a teaching and learning strategy that offers students the opportunity to participate in meaningful and relevant community service activities that address authentic community needs and make curricular connections beyond the classroom.

Awards will be made to K-12 public schools in the District of Columbia to incorporate service-learning as an educational strategy in the classroom. This initiative will support a wide range of program activities that emphasize authentic youth engagement in their communities. These activities will enable youth to meet local environmental, educational, public safety, homeland security, or other community needs. Additionally, applicants must propose to implement service-learning projects that connect to one or more core curriculum standards.

Criteria for eligible applicants: Eligible applicants are K-12 public schools including public charter schools. Applicants must be in partnership with at least one additional community partner organization. Public school partners may include private/independent schools, for-profit businesses, institutions of higher education and other non-profits including faith-based organizations. Schools and partnership organizations are responsible for implementation, replication, and/or expansion of service-learning activities in the school and local community. All projects must operate a service-learning program within the District of Columbia.

An organization described in Section 501 (c) (4) of the Internal Revenue Code, 26 U.S.C. 501 (c) (4), that engages in lobbying activities is not eligible to apply, serve as a host site for members, or act in any type of supervisory role in the program. **Individuals are not eligible to apply.**

All eligible applicants must meet all of the applicable requirements contained in the application guidelines and instructions. The Request for Application (RFA) will be released on October 5, 2007 at 9:00 a.m. **The deadline for submission to Serve DC is November 16, 2007 at 5:00 p.m.**

The schedule for technical assistance sessions is as follows: One Judiciary Square, 441 4th Street NW, Room 1114, October 17, 2007 from 5:00pm-7:00pm and November 8, 2007 from 5:00pm-7:00pm. Additionally, one conference call is scheduled for November 14 from 4:00pm-5:00pm (registration is required). **All interested applicants must register and attend one technical assistance session in order to apply for funds.** Please prepare by reading the RFA carefully. To RSVP for a training session, contact Kristen Henry, Serve DC Learn and Serve Coordinator, at (202)-727-8003 or kristen.henry@dc.gov.

Serve DC anticipates awarding grants of up to \$14,000 for Learn and Serve School-Based grants. Applicants must provide a total of 30% match in cash or in-kind non-Federal sources. The actual number and dollar amount of the awards will depend upon the number of approved applications received.

Applications can be obtained starting at 9:00 AM on October 5, 2007 from the Serve DC office at 441 4th Street NW, Suite 1140N, Washington, DC 20001 or downloaded and printed from the Serve DC website at www.serve.dc.gov. For additional information please call Kristen Henry, Learn and Serve Coordinator at (202) 727-8003.

FRIENDSHIP PUBLIC CHARTER SCHOOL**NOTICE OF REQUEST FOR PROPOSAL**

Friendship Public Charter School (FPCS) is soliciting proposals for the following service

FITNESS, EDUCATION AND HEALTH SERVICES PROGRAM that will support Friendship Public Charter School's health benefits package.

An electronic copy of the full Request for Proposal (RFP) may be requested by contacting:

Valerie Holmes
vholmes@friendshipschools.org
202-281.1722

D.C. DEPARTMENT OF HUMAN RESOURCES**NOTICE CONCERNING COVERAGE UNDER THE PERFORMANCE
MANAGEMENT PROGRAM****CAREER SERVICE NON-UNION, NON-SUPERVISORY EMPLOYEES IN
GRADES CS-15 AND ABOVE**

Sections 1351 through 1353 of the District of Columbia Government Comprehensive Merit Personnel Act of 1978 (CMPA), effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-613.51 *et seq.*) (2001), established a comprehensive performance management system for the District government. Chapter 14, *Performance Management*, of Title 6 of the District of Columbia Municipal Regulations, implements the guidelines and procedures for the Performance Management Program pursuant to sections 1351 through 1353 of the CMPA.

As of the date of this notice, the majority of Career Service employees (especially, non-unionized, and non-managerial/non-supervisory) in agencies under the personnel authority of the Mayor are not covered under the Performance Management Program. However, section 1400.1 (e) of Chapter 14 of the regulations provides that the Director of the D.C. Department of Human Resources, may, on an agency-by-agency basis, authorize coverage under the Performance Management Program for this category of employees.

Further, section 1400.2 of the regulations provides that, upon authorizing an agency for coverage pursuant to section 1400.1 (e) of the chapter, the Director, D.C. Department of Human Resources, shall publish a notice in the *D.C. Register* concerning such authorization.

Accordingly, the purpose of this notice is to announce that on **Tuesday, September 18, 2007**, Brender L. Gregory, Director, D. C. Department of Human Resources authorized coverage under the Performance Management Program for Career Service non-unionized, non-supervisory employees in grades CS-15 and above in agencies under the authority of the Mayor. Coverage for these employees begins **on October 1, 2007**.

D.C. DEPARTMENT OF HUMAN RESOURCES**NOTICE CONCERNING COVERAGE UNDER THE PERFORMANCE
MANAGEMENT PROGRAM****OFFICE OF PROPERTY MANAGEMENT**

Sections 1351 through 1353 of the District of Columbia Government Comprehensive Merit Personnel Act of 1978 (CMPA), effective March 3, 1979 (D.C. Law 2-139; D.C. Official Code § 1-613.51 *et seq.*) (2001), established a comprehensive performance management system for the District government. Chapter 14, *Performance Management*, of Title 6 of the District of Columbia Municipal Regulations, implements the guidelines and procedures for the Performance Management Program pursuant to sections 1351 through 1353 of the CMPA.

As of the date of this notice, the majority of Career Service employees (especially, non-unionized, and non-managerial/non-supervisory) in agencies under the personnel authority of the Mayor are not covered under the Performance Management Program. However, section 1400.1 (e) of Chapter 14 of the regulations provides that the Director of the D.C. Department of Human Resources, may, on an agency-by-agency basis, authorize coverage under the Performance Management Program for this category of employees.

Further, section 1400.2 of the regulations provides that, upon authorizing an agency for coverage pursuant to section 1400.1 (e) of the chapter, the Director, D.C. Department of Human Resources, shall publish a notice in the *D.C. Register* concerning such authorization.

Accordingly, the purpose of this notice is to announce that on **Tuesday, September 18, 2007**, Brender L. Gregory, Director, D. C. Department of Human Resources authorized coverage under the Performance Management Program for non-unionized Career Service employees in the Office of Property Management. Coverage for these employees begins on **October 1, 2007**.

SERVE DC
*******GRANT REVIEW OPPORTUNITY*******

**Serve DC Seeks Grant Reviewers
for 2007 Learn and Serve America School-Based Funding Competition**

Serve DC is seeking individuals to review grant proposals for the 2007 Learn and Serve America funding competition. This is an excellent opportunity to network with colleagues in the national service and education fields, learn more about the grant-making process, develop your own grant-writing skills, learn about exciting initiatives happening in local schools, and contribute your knowledge and experience to Serve DC's efforts to select high-quality service-learning programs for Learn and Serve America funding.

What does a grant reviewer do? Grant reviewers will help to evaluate funding applications for the 2007 Learn and Serve America School-Based grant competition. Reviewers read, score and evaluate proposals, and discuss their findings with a small group of fellow reviewers and a facilitator. The panel then comes to consensus to rank the proposals according to quality and recommend them for the next level of review.

What qualifications should reviewers have? Serve DC is looking for a diverse group of reviewers--males and females of all ages, races and ethnicities--that have experience with national service, education, or community-based programs, and grant writing. Serve DC would like to recruit reviewers experienced with service-learning, education, youth development, or national service. For example, reviewers may be community service practitioners, educators, students, youth participants, national service alumni, people working in foundations, or individuals working on public policy issues.

Reviewers must be comfortable reading a large volume of material in a short period of time and providing analysis in a small group.

Can members currently serving in AmeriCorps or any other streams of service serve as reviewers? No, you must have completed your AmeriCorps service before being selected as a reviewer. Alumni of the AmeriCorps programs are strongly encouraged to apply to serve as reviewers. AmeriCorps members must have completed service by August 1, 2007.

Can people who work for a Corporation for National and Community Service-funded program serve as a reviewer? Yes, people who work for organizations affiliated with other Learn and Serve America, AmeriCorps or national service programs may serve as reviewers. For instance, an individual who works for an organization that hosts a VISTA volunteer may review AmeriCorps applications. However, people cannot serve as a reviewer for the AmeriCorps programs if they work for an organization that is being considered for funding in this competition.

What is the time commitment? Reviewers must be available on **November 27, 2007 (5:00pm-6:30pm)** and **December 4, 2007 (2:30pm-6:00pm; this session may run later depending on the number of applications received)**. Reviewers will participate in an evening training session on November 27, 2007, and a consensus review session on December 4, 2007. The period between training and consensus session will be dedicated to reviewing and scoring the proposals.

What are the benefits to reviewers? The grant review experience is an excellent opportunity to meet and network with colleagues in the national service and service-learning fields; find out about exciting programming and trends in service-learning and youth programs; develop a deeper understanding of the grant-writing and

grant-making processes; and contribute experience to the selection of high-quality programs for the District of Columbia. This is a volunteer opportunity.

How does one apply to become a reviewer? To apply, please forward your resume to: Kristen Henry, Learn and Serve Coordinator, Serve DC, 441 4th Street, Suite 1140N, Washington, DC 20001 or e-mail kristen.henry@dc.gov, 202-727-8003. Please share this announcement with others who are qualified reviewers.

Is there a deadline to apply? We will begin reviewing resumes and contacting potential reviewers as resumes arrive. Please submit resumes as soon as possible, but no later than 5pm on **October 12, 2007** for consideration.

What are the next steps after submitting a resume? Serve DC will review resumes and begin contacting qualified applicants. We will check for conflicts of interest and confirm availability at that time.

Thank you for your interest in serving as a reviewer and for sharing this announcement with others who may be interested. This is a very important part of our review process and our efforts to recommend high quality programs for funding.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Application No. 17654 of Chen's Gourmet Carryout, LLC, pursuant to 11 DCMR § 3103.2, for a use variance to operate a fast-food restaurant under subsection 701.4(q), in the C-1 District at premises 5117 MacArthur Boulevard, N.W. (Square 1419, Lot 50).

HEARING DATES: September 11, 2007

DECISION DATE: September 11, 2007

DISMISSAL ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2.

BACKGROUND

The subject self-certified application was filed with the Board of Zoning Adjustment (Board) on April 10, 2007. Pursuant to 11 DCMR 3113.3, notice of the September 11, 2007 public hearing was sent to the Applicant, all owners of property within 200 feet of the subject site, the Advisory Neighborhood Commission (ANC) 3D and the District of Columbia Office of Planning (OP). The Applicant posted placards at the property regarding the application and public hearing and submitted an affidavit to the Board to this effect. The Office of Planning submitted a report in support of the application. Advisory Neighborhood Commission 3D submitted a report in support of the application. No parties appeared at the public hearing in opposition to this application.

The application is a request for a use variance to operate a fast-food restaurant under subsection 701.4(q), in the C-1 District at premises 5117 MacArthur Boulevard, N.W. The Applicant indicated that from 1986 to present, the subject property has been leased, operated, and licensed continually by Chen's Gourmet Carryout. Recently, the Zoning Administrator's Office, acting on a request for a change of ownership, triggered a zoning inspection of the property, which in turn resulted in the reclassification of the long standing carryout use to a fast food restaurant establishment. This action prompted the Applicant to file the subject use variance case.

The Board, after careful consideration of the historical facts presented in the record of this case, concludes that no relief is needed to allow the continued operation of the subject food service establishment as a fast food restaurant. The Zoning Regulations were amended in 1985, to inter alia, add a definition of "fast food restaurant" and to prohibit such a restaurant as a matter-of-right use in the C-1 zone district. The Board finds, however, that the present use has been operating continuously at the subject site, pursuant

BZA APPLICATION NO. 17654

PAGE NO. 2

to a valid Certificate of Occupancy, as a "carry-out" or a fast food restaurant since at least 1971. Therefore, this use, as a fast food restaurant, is a legal nonconforming use (see 11 DCMR § 199.1, definition of a Nonconforming Use) and no zoning relief is needed to continue its operation.

Pursuant to 11 DCMR § 3101.6, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. It is therefore **ORDERED** that this application be **DISMISSED** and as such authorizes the Department of Consumer and Regulatory Affairs to issue a certificate of occupancy permit to the Applicant for a "fast food restaurant –carry-out only".

Board's Motion to Dismiss the Application:

VOTE: 3-0-2 (Ruthanne G. Miller, Gregory N. Jeffries and Marc D. Loud to approve the motion, Curtis L. Etherly, Jr. and the NCPC representative not present, not voting).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

Each concurring member approved the issuance of this order.

FINAL DATE OF ORDER: September 12, 2007

UNDER 11 DCMR 3125.9, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE FOR THE BOARD OF ZONING ADJUSTMENT. rsn

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Application No. 17660 of Shirley Frierson and Pamela Bright, pursuant to 11 DCMR § 3104.1, for a special exception to allow the construction of a rear addition to an existing single-family semi-detached dwelling under section 223, not meeting the lot occupancy (section 403) and rear yard (section 404) requirements of the R-5-A District at premises 2460 Skyland Place, S.E. (Square 5740, Lot 840).

HEARING DATE: September 18, 2007

DECISION DATE: September 18, 2007 (Bench Decision)

SUMMARY ORDER

REVIEW BY THE ZONING ADMINISTRATOR

The application was accompanied by a memorandum from the Zoning Administrator certifying the required relief.

The Board provided proper and timely notice of the public hearing on this application by publication in the D.C. Register, and by mail to Advisory Neighborhood Commission (ANC) 8B and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 8B, which is automatically a party to this application. ANC 8B did not participate in the application. The Office of Planning (OP) submitted a report in support of the application.

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to § 3104.1, for special exception under section 223. No parties appeared at the public hearing in opposition to this application. Accordingly a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the OP report the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1 and 223, that the requested relief can be granted as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

BZA APPLICATION NO. 17660

PAGE NO. 2

Pursuant to 11 DCMR § 3101.6, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. It is therefore **ORDERED** that this application (pursuant to Exhibit No. 9 – Plans) be **GRANTED**.

VOTE: 4-0-1 (Marc D. Loud, Anthony J. Hood, Ruthanne G. Miller and Curtis L. Etherly to approve; the NCPC member not present, not voting).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

Each concurring member approved the issuance of this order.

FINAL DATE OF ORDER: September 19, 2007

UNDER 11 DCMR 3125.9, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE FOR THE BOARD OF ZONING ADJUSTMENT."

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSES OF SECURING A BUILDING PERMIT.

PURSUANT TO 11 DCMR § 3125 APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE, UNLESS THE BOARD ORDERS OTHERWISE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD.

D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 ET SEQ., (ACT) THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX

BZA APPLICATION NO. 17660

PAGE NO. 3

DISCRIMINATION WHICH IS ALSO PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS ALSO PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION. THE FAILURE OR REFUSAL OF THE APPLICANT TO COMPLY SHALL FURNISH GROUNDS FOR THE DENIAL OR, IF ISSUED, REVOCATION OF ANY BUILDING PERMITS OR CERTIFICATES OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER. RSN

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Application No. 17661 of John and Janet Moreth, pursuant to 11 DCMR § 3103.2, for a variance from the lot occupancy requirements under section 403, and a variance from the height of accessory building requirements under subsection 2500.4, to construct a two story garage serving a single-family row dwelling in the R-4 District at premises 531 9th Street, S.E. (Square 926, Lot 41).

Note: The Board amended the application at the public hearing to include variance relief from subsection 2500.4.

HEARING DATE: September 18, 2007

DECISION DATE: September 18, 2007 (Bench Decision)

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2.

The Board provided proper and timely notice of public hearing on this application, by publication in the D.C. Register, and by mail to Advisory Neighborhood Commission (ANC) 6B, the Office of Planning (OP) and to owners of property within 200 feet of the site. The site of the application is located within the jurisdiction of ANC 6B. The ANC submitted a letter in support of the application. The OP submitted a report in support to the application.

As directed by 11 DCMR § 3119.2, the Board required the applicant to satisfy the burden of proving the elements that are necessary to establish the case for a variance pursuant to 11 DCMR §§ 3103.2. No parties appeared at the public hearing in opposition to the application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the OP and ANC reports filed in this case, the Board concludes that the applicant has met the burden of proving under 11 DCMR §§ 3103.2, 2500.4 and 403, that there exists an exceptional or extraordinary situation or condition related to the property that creates an undue hardship for the owner in complying with the Zoning Regulations, and that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

BZA APPLICATION NO. 17661

PAGE NO. 2

Pursuant to 11 DCMR § 3101.6, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party, and is not prohibited by law. It is therefore **ORDERED** that this application (pursuant to Exhibit 13 – Plans) be **GRANTED**.

VOTE: 4-0-1 (Marc D. Loud, Anthony J. Hood, Ruthanne G. Miller, and Curtis L. Etherly, Jr. to approve, the NCPC Representative not present, not voting)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

Each concurring Board member has approved the issuance of this order.

FINAL DATE OF ORDER: September 19, 2007

PURSUANT TO 11 DCMR § 3125.6, THIS ORDER WILL BECOME FINAL UPON ITS FILING IN THE RECORD AND SERVICE UPON THE PARTIES. UNDER 11 DCMR § 3125.9, THIS ORDER WILL BECOME EFFECTIVE TEN DAYS AFTER IT BECOMES FINAL.

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSES OF SECURING A BUILDING PERMIT.

PURSUANT TO 11 DCMR § 3125 APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE, UNLESS THE BOARD ORDERS OTHERWISE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE §§ 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION,

BZA APPLICATION NO. 17661

PAGE NO. 3

FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION. rsn

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 04-24A**

Z.C. Case No. 04-24A

**Second-Stage PUD – Mid-City Urban LLC and A & R Development Corporation
(Part of Parcel 130, Lots 220 and 221)**

April 9, 2007

Pursuant to notice, the Zoning Commission for the District of Columbia (the “Commission”) held a public hearing on February 26, 2007 to consider an application from a partnership of Mid-City Urban LLC and A & R Development Corporation (collectively, the “Applicant”) requesting approval of a second-stage planned unit development (“PUD”) for property adjacent to the Rhode Island Avenue Metrorail Station near 9th Street and Rhode Island Avenue, N.E. The Washington Metropolitan Area Transit Authority (“WMATA”) is the property owner, having granted a long-term ground lease to the Applicant to accomplish the proposed development. The proposed project is a mixed-use town center comprising rental apartments, retail uses, and project and public amenities. The public hearing was conducted in accordance with the provisions of 11 DCMR § 3022. For the reasons stated below the Commission hereby approves the Application subject to the specified conditions.

FINDINGS OF FACT

Application, Parties, and Hearing

1. In Zoning Commission Order No. 04-24, dated September 15, 2005, effective upon its publication in the *D.C. Register* on October 7, 2005, the Commission approved the first stage of this planned unit development for a proposed mixed-use town center on the PUD site. On July 20 and August 11, 2006, the Applicant submitted its second-stage application. On September 11, 2006, the Commission deferred setting down the case for public hearing, pending the Applicant’s submission of additional information. The Applicant supplemented its application on October 6, 2006, and the Office of Planning provided its supplemental report the same day. The case was set down for hearing on October 16, 2006. The Applicant provided its prehearing statement on October 18, 2006 and a Supplemental Submission on February 6, 2007.
2. A description of the proposed development and the Notice of Public Hearing were published in the *D.C. Register* on November 10, 2006 (53 DCR 9186). The Notice of Public Hearing was also mailed to owners of all property within 200 feet of the subject property, as well as to Advisory Neighborhood Commission (“ANC”) 5B.

Z.C. ORDER NO. 04-24A

Z.C. CASE NO. 04-24A

PAGE 2

3. The Applicant requested final approval of the plans and site plan for the Rhode Island Avenue Metro town center development approved in the first-stage application.
4. The parties in the case were the Applicant and the Advisory Neighborhood Commission ("ANC") 5B, the ANC in which the PUD site is located.
5. On February 26, 2007, the Commission conducted and completed the public hearing, while requesting additional information on some aspects of the case and exterior materials samples to be submitted to the record.
6. The Commission took proposed action to approve the application on March 12, 2007 by a vote of 4-0-1.
7. The proposed action of the Commission was referred to the National Capital Planning Commission ("NCPC") pursuant to § 492 of the District Charter. NCPC, by action dated March 30, 2007, found the proposed PUD would not affect the federal interests in the National Capital, and would not be inconsistent with the Comprehensive Plan for the National Capital.
8. The Commission took final action to approve the Application on April 9, 2007 by a vote of 4-0-1.

Second-Stage Application and Project

9. The property that is the subject of this application consists of approximately 368,282 square feet of land and is located immediately to the east of the Rhode Island Avenue Metrorail Station near 9th Street and Rhode Island Avenue, N.E. (part of Parcel 130, Lots 220 and 221). The PUD site consists of the existing parking lot for the Metrorail station plus land extending north to the Rhode Island Avenue frontage, all owned by WMATA. The subject property is zoned C-2-B pursuant to the first-stage PUD order in this case, Order No. 04-24, effective October 7, 2005.
10. The Applicant proposed to construct a mid-rise, mixed-use town center, consisting of 274 rental apartments with a gross floor area of 321,544 square feet, approximately 70,000 square feet of retail space, and associated amenities such as a green roof and a swimming pool. The total proposed density was 1.52 FAR. The development will be organized around a "Main Street" running perpendicular to the Metrorail station, with three stories of residential apartments above ground-floor retail uses on both sides of Main Street. The mixed-use development pattern will also wrap around Washington Place (the entrance drive to the transit station) and will continue along the Rhode Island Avenue frontage. The exception is that on the Avenue frontage within 340 feet of the railroad overpass, residential uses rather than retail uses will occupy the ground-floor level. Two parking garages will be integrated into the development and will provide 469 parking

Z.C. ORDER NO. 04-24A

Z.C. CASE NO. 04-24A

PAGE 3

spaces for retail, residential, and shared residential-Metrorail customer parking. (Immediately to the south of the PUD site, WMATA will construct, or will have constructed by the Applicant, a 215-car parking garage to accommodate some of the 387 spaces on the existing parking lot that will be displaced by the proposed town center development.) Twenty percent of the apartments will be maintained as affordable for a period of 20 years to households making 50 percent or less of the Washington, D.C. Metropolitan Area Median Income ("AMI").

11. At the public hearing, Douglas Hale, the representative from WMATA, stated that the PUD project had the full support of the transit authority and resulted from WMATA's Joint Development program.
12. The project manager from A & R Development Corporation, Kapres Meadows, summarized the project, including the partnership of Mid-City Urban LLC and A & R Development Corporation, and project milestones from 2001 to the present. Construction was projected to occur from January 2008 (with the WMATA garage off-site) to completion in December 2009. He also testified regarding the rent levels for the affordable dwelling units and the wide range of retail, service, and restaurant tenants that will be sought for the retail area. He summarized the important community benefits of the PUD project as follows:
 - (a) Transit-oriented development;
 - (b) Affordable housing and expansion of the total housing supply;
 - (c) Retail services for the neighborhood and Metro users;
 - (d) Retail space for non-credit community businesses;
 - (e) Green building elements;
 - (f) Harmony Cemetery memorial; and
 - (g) First Source and LSDBE agreements.
13. The project architect, Steve Gang of the Lessard Group, presented the site plan and architectural plans. He emphasized the Applicant's attempts to respond fully to the Commission's design comments from the setdown meetings. Some of the design changes were:
 - (a) Elevations: Activation of building facades by alternating building depths through the use of setbacks and bump-outs; using a variety of colors, materials, window muntin patterns, and ornamental elements; shutters; and variation in Hardieplank widths;

Z.C. ORDER NO. 04-24A

Z.C. CASE NO. 04-24A

PAGE 4

- (b) Garages: Improved character of garage exteriors and improved design integration of the garages into the overall development;
 - (c) Building Materials: Selection of exterior materials to create good quality design, noting the quality and environmental benefits of Hardieplank panels and cultured stone;
 - (d) Green Roof: Enhanced plans for a green roof for the plaza in Building 2, including limited pathways and seating for residents;
 - (e) Condenser Grills: Revised project elevations to show that they will not be prominent design features, but to highlight the energy-saving benefits of such units;
 - (f) Presentation: Use of color renderings and elevations on the architectural presentation to accurately depict how the finished development will look.
14. The landscape architect, Joseph Plumpe from Studio 39 Landscape Architecture, P.C., presented the landscape architecture exhibits, including streetscape elements and proposed plantings along Main Street, Rhode Island Avenue, the perimeter road, swimming pool amenity area, and fronts of buildings. Existing mature trees along Rhode Island Avenue will be retained. Plantings will be in keeping with the function of the various areas in the town center. The landscape architect also presented the exhibits for streetscape materials and site furnishings. Sidewalks will be primarily composed of scored concrete. Site furnishings, such as benches, trash receptacles, bike racks, café tables and kiosks, will be of a coordinated style and color to complement each other as well as the architectural design. Streetlights will be in scale with pedestrian use and be either pole mounted "Washington globe" style or hang above the driving lanes on cables or a combination of the two. Strategically located crosswalks will complete the streetscape design to encourage safe pedestrian use throughout the day and evening.
15. The President of Mid-City Urban LLC, Victoria Davis, described how the community retail space set-aside would work. She stated that the affordable units will probably "float" in the development rather than being specifically designated units. She also explained the complex parking management system needed for the site to function properly. She depicted the electronic signage system proposed for the entry to the site regarding the parking status of the two garages plus the Metrorail parking garage adjacent to the PUD site, as well as the signs at the entrance to each garage that will indicate to drivers the availability of spaces. She also described the flow through the garages and how the shared parking will function and be controlled. She also testified regarding:
- (a) The rationale for the level of parking provided for Metrorail, retail, and residential uses;

Z.C. ORDER NO. 04-24A

Z.C. CASE NO. 04-24A

PAGE 5

- (b) The evolution of parking levels and resolution of issues with all stakeholders, especially balancing the transit-oriented goals for limiting total parking with concerns of community interests for adequate on-site parking for all users. The use of shared Metro-residential parking spaces was critical in reaching an optimal solution.
 - (c) The parking breakdown will be 215 spaces in the Metrorail garage (off-site), 70 shared spaces each in Garages 1 and 2; 13 Metro/retail shared spaces on Main Street; 6 Metro/retail taxi spaces; and 14 Metro Kiss-N-Ride spaces. Thus, 387 spaces will be available to Metro users. The Applicant agreed to extended hours (to 10:00 p.m.) for the shared spaces and to charge only Metro rates rather than market rates.
16. The transportation consultant, Osborne George of O.R. George and Associates, testified that pedestrian and vehicular circulation will be safe and effective. His testimony described the timing and volumes of circulation modes -- buses, commuter cars, retail customers, on-site residents. He emphasized the following points:
- (a) Peak usage time frames for pedestrians and vehicles are not simultaneous but are staggered. Commuter traffic peaks at 6:00 - 7:00 a.m. and 3:00 - 4:00 p.m.; Kiss & Ride peaks at 8:00 - 9:00 a.m. and 5:00 - 6:00 p.m.; and pedestrian Metrorail users peak at 8:00 - 9:00 a.m. and 5:00 - 6:00 p.m. This staggered timing helps promote safety and efficient site circulation.
 - (b) Dominant pedestrian movements are from the north and the south and will encounter only limited conflicts with vehicular movements. The Metrorail parking garage will provide access to the station without requiring pedestrians to cross a street.
 - (c) The planned traffic signal, stop signs, calming measures, and low speed limits will provide effective and safe traffic management. Internal and external levels of service meet city standards.
 - (d) The project will be transit-oriented development, in compliance with the District's public policies, including the Comprehensive Plan.
 - (e) A traffic simulation model was developed to show all traffic modes in movement and to test the system.

Report of the Office of Planning

17. By report dated February 16, 2007, the Office of Planning ("OP") recommended approval of the application. The report reviewed the evolution of the project since the first-stage

Z.C. ORDER NO. 04-24A

Z.C. CASE NO. 04-24A

PAGE 6

PUD approval and noted that the second-stage application was in compliance with the first-stage order. OP stated that the provision for 20 percent of the units as affordable to households earning 50 percent or less of the Washington, D.C. Metropolitan AMI was a strong amenity. The report indicated that the project was in conformance with the Comprehensive Plan, specifically as to the Generalized Land Use Map and the designation of the site as a "Metrorail Development Opportunity Area." Other public benefits and project amenities favorably cited by OP included: ground-level retail uses with ceiling heights of 14 feet or more, extensive landscaping and a green roof, 7,000 square feet of community business space, and the signed First Source hiring agreement.

Report of the District Department of Transportation

18. By memorandum dated February 26, 2007, the District Department of Transportation ("DDOT") stated it did not object to the PUD provided the Applicant: 1) designed and installed a new traffic signal at the main internal intersection; 2) improved crosswalk markings at the external intersection of Rhode Island Avenue, Reed Street, and Washington Place, N.E.; 3) provided at least two parking spaces for use by car-sharing vehicles; and 4) coordinated with DDOT to develop a transportation demand management plan. The report noted that the perimeter road will be widened to three lanes and will accommodate two-way traffic.

Advisory Neighborhood Commission 5B

19. By letter dated February 9, 2007, ANC 5B stated its continuing support for the PUD project, noting that the Applicant had met numerous times with the ANC during the past year. The letter strongly supported the achievement of one-to-one replacement parking for Metrorail users and stated, "Rhode Island Avenue Metro Plaza will be a wonderful new amenity to our community and we request [the Zoning Commission's] approval of the PUD application." On December 1, 2005, the ANC approved a formal resolution of support for the PUD. The chairman of the ANC testified in support, noting that the proposed town center will be instrumental in stimulating economic vitality and high-quality development on Rhode Island Avenue, N.E. The single-member district Commissioner for ANC 5B03 also testified in support, while expressing concerns about continued communications between the development team and community representatives going forward.

Testimony in Support and in Opposition

20. The Councilmember from Ward 5, Harry Thomas Jr., submitted a letter dated February 5, 2007 in support of the PUD project, emphasizing the benefits of the affordable housing units, the community retail set-aside, positive design changes in response to community concerns, and resolution of complex parking issues. In the letter and in testimony at the

Z.C. ORDER NO. 04-24A

Z.C. CASE NO. 04-24A

PAGE 7

public hearing, he praised the high quality of the proposed town center and its projected effect of encouraging greater public transit use.

21. The Washington Smart Growth Alliance ("SGA") submitted a letter in support dated February 8, 2007 and also testified in support. SGA is a coalition of five member organizations. The SGA's Project Recognition Jury selected the PUD project as an exemplary smart growth development, based on location, mobility and accessibility, density, design, diversity of uses, affordable housing, environmental assets and community participation. The jury found the PUD project to be "a well-designed and thoughtful example of a mixed-use development around a transit station in a neglected neighborhood." The use of shared parking and achievement of an optimal number and usage of parking spaces were cited as a potential model for other transit-oriented developments.
22. By letter dated February 20, 2007, Neil Albert, the Deputy Mayor for Planning and Economic Development, supported approval of the PUD. He praised the thorough community and multi-agency participation process followed by the Applicant in development of the PUD plan. He also cited the project as a model for transit-oriented development in Washington and stated that the development will spur additional investment in the Rhode Island Avenue corridor. The letter also favorably noted the affordable housing component of the PUD.
23. The Brentwood Civic Association submitted a letter in support, dated September 15, 2006, stating that its membership was favorably impressed with the project and especially citing the PUD's provision of places to shop, restaurants, gathering places, and affordable housing as positive features. The Association also praised the Applicant's proposed action to create a memorial for Harmony Cemetery.
24. There was no testimony in opposition.

CONCLUSIONS OF LAW

1. The PUD process is an appropriate means for controlling development of the site in a manner consistent with the best interests of the District of Columbia. The PUD process is designed to encourage high-quality development that provides public benefits (11 DCMR § 2400.1) and allows flexibility of development and other incentives, provided that the PUD project "offers a commendable number or quality of public benefits, and that it protects and advances the public health, safety, welfare, and convenience." (11 DCMR § 2400.2.)
2. Under the PUD process of the Zoning Regulations, the Zoning Commission may impose development conditions, guidelines, and standards that may exceed or be less than the matter-of-right standards identified for height, FAR, lot occupancy, parking, loading,

Z.C. ORDER NO. 04-24A

Z.C. CASE NO. 04-24A

PAGE 8

yards, or courts. The Commission may also approve uses that are permitted as special exceptions and would otherwise require approval by the BZA.

3. The development of this PUD project carries out the purposes of Chapter 24 of the Zoning Regulations to encourage well-planned developments that will offer a variety of building types with more attractive and efficient overall planning and design, not achievable under matter-of-right development.
4. Approval of this application is not inconsistent with the *Comprehensive Plan for the National Capital*.
5. Approval of this application is consistent with the intent and purposes of the Zoning Regulations and the Zoning Map of the District of Columbia, the PUD process, and the first-stage approval, and approval will promote orderly development in conformity with the Zone Plan as a whole.
6. The PUD is within the applicable height and bulk standards of the Zoning Regulations, and the proposed height and density of buildings will not cause any adverse effect on nearby properties. The proposed mixed-use town center development is appropriate on this site, which is well-served by the abutting Metrorail station, a major arterial street, and numerous bus lines. The impact of the project on the surrounding area will not be adverse, but rather will enhance neighborhood quality, access to commercial services, and expansion of the housing supply, including affordable housing.
7. The development of the project is compatible with District-wide and neighborhood goals, plans and programs and is sensitive to environmental protection, public safety, and other significant public objectives.
8. The Commission is required under D.C. Official Code §§ 1-309.10(d) and 6-623.04 (2001) to give great weight to the issues and concerns raised by the affected ANC and to the recommendation of the Office of Planning. The Commission notes that the affected ANC, 5B, testified in support of the Application, as did the Office of Planning.
9. The Application is subject to compliance with D.C. Law 2-38, the Human Rights Act of 1977, as amended.

DECISION

In consideration of the Findings of Fact and Conclusions of Law herein, the Zoning Commission orders **APPROVAL** of the second-stage PUD application. The subject property is located near the intersection of 9th Street and Rhode Island Avenue, N.E. and is legally identified as part of Parcel 130, Lots 220 and 221. This approval is subject to the following guidelines, conditions, and standards:

Z.C. ORDER NO. 04-24A

Z.C. CASE NO. 04-24A

PAGE 9

1. The PUD shall be developed in accordance with the site plan and architectural and landscape plans submitted as Exhibits 12A, 19, and 29 in the record of this case, and as modified by the guidelines, conditions, and standards of this Order.
2. The maximum building height in the project shall be ninety (90) feet, and the maximum aggregate gross floor area shall be 1.90 FAR.
3. The Project shall be a mixed-use town center as depicted in the final plans approved in the second-stage application. The project will consist of approximately 270 rental apartments totaling approximately 322,000 square feet of gross floor area; 70,000 gross square feet of retail uses; additional ground floor uses for community businesses; and approximately 531 garage and on-street parking spaces.
4. Twenty percent of the apartments (54 units) shall be made available and restricted for a period of 20 years as affordable housing for qualifying households having incomes not exceeding 50 percent of the Washington, D.C. Metropolitan AMI. The Applicant is not required to designate specific units to be the affordable units, so long as the 20 percent requirement is maintained on an on-going basis.
5. The Applicant shall devote 7,000 gross square feet of the retail floor area to non-credit, community businesses.
6. The Applicant shall coordinate with DDOT to coordinate signalization of the internal intersection formed by the Metro perimeter road, Main Street, and the adjacent Brentwood Shopping Center.
7. Pedestrian and vehicular safety features shall be provided as depicted in the approved plans. Such features include street cross-walk markings, stop signs, traffic signals, and speed limit signs.
8. The Applicant shall erect electronic signs that advise incoming automobile drivers of the availability of parking spaces in the parking garages.
9. At least two parking spaces shall be reserved for by Flexcar, Zipcar, or similar car-sharing service.
10. The PUD project may be developed in phases.
11. The Applicant shall have the flexibility to:
 - (a) Vary the location and design of all interior components of the buildings, provided that the variations do not change the exterior configurations of the buildings;

Z.C. ORDER NO. 04-24A

Z.C. CASE NO. 04-24A

PAGE 10

- (b) Vary the final selection of the exterior materials within the color ranges and materials types as proposed, based on availability at the time of construction without reducing the quality of materials. The Applicant may also make minor refinements to exterior details and dimensions needed to comply with the D.C. Construction Codes and the Americans with Disabilities Act ("ADA") or otherwise necessary to obtain a building permit;
 - (c) Vary the mix of apartment unit types by up to 10 percent;
 - (d) Design and erect a memorial to Harmony Cemetery in the southern part of the site, in cooperation with community interests.
- 12. The green roof depicted on Building 2 may include a walking trail and a limited amount of outdoor furniture, provided that the passive green roof shall occupy no less than 60 percent of the roof area.
- 13. The Applicant shall execute the following agreements prior to applying for a building permit:
 - (a) A First-Source Employment Agreement with the Department of Employment Services; and
 - (b) A Memorandum of Understanding with the District of Columbia Department of Small and Local Business Development ("DSLBD") to ensure minority vendor participation.
- 14. No building permit shall be issued for the PUD until the Applicant has recorded a covenant in the land records of the District of Columbia, between the Applicant and the District of Columbia that is satisfactory to the Office of the Attorney General for the District of Columbia and the Zoning Regulations Division of the Department of Consumer and Regulatory Affairs ("DCRA"). Such covenant shall bind the Applicant and all successors in title to construct and use the subject property in accordance with this Order, or amendment thereof by the Zoning Commission.
- 15. The Office of Zoning shall not release the record of this case to the Zoning Regulations Division of DCRA until the Applicant has filed a certified copy of the covenant with the Office of Zoning.
- 16. This final PUD approved by the Zoning Commission shall be valid for a period of two (2) years from the effective date of this Order. Within such time, the Applicant shall file for a building permit as specified in 11 DCMR §§ 2408.8 and 2409.1. Construction shall start within three (3) years of the effective date of this Order.

Z.C. ORDER NO. 04-24A

Z.C. CASE NO. 04-24A

PAGE 11

17. The Applicant is required to comply fully with the provisions of the Human Rights Act of 1977, D.C. Law 2-38, as amended, and this Order is conditioned upon full compliance with those provisions. In accordance with the D.C. Human Rights Act of 1977, as amended, D.C. Official Code § 2-1401.01 et seq. ("Act"), the District of Columbia does not discriminate on the basis of actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, familial status, family responsibilities, matriculation, political affiliation, disability, source of income, or place of residence or business. Sexual harassment is a form of sex discrimination, which is also prohibited by the Act. In addition, harassment based on any of the above-protected categories is also prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action. The failure or refusal of the Applicant to comply shall furnish grounds for the denial or, if issued, revocation of any building permits or certificates of occupancy issued pursuant to this Order.

On March 12, 2007 the Zoning Commission **APPROVED** the application by a vote of 4-0-1 (Carol J. Mitten, Anthony J. Hood, Gregory N. Jeffries, and John G. Parsons to approve; Michael G. Turnbull not having participated, not voting).

This Order was **ADOPTED** by the Zoning Commission at its public meeting on April 9, 2007 by a vote of 4-0-1 (Carol J. Mitten, Anthony J. Hood, Gregory N. Jeffries, and John G. Parsons to approve; Michael G. Turnbull not having participated, not voting).

In accordance with the provisions of 11 DCMR § 3028, this Order shall become final and effective upon publication in the *D.C. Register*, that is, on _____.

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
ZONING COMMISSION ORDER NO. 06-21**

Z.C. Case No. 06-21

**Consolidated Planned Unit Development by
Douglas Development Corporation located at 6th and L Streets, N.W.
January 8, 2007**

Pursuant to notice, the Zoning Commission for the District of Columbia (the "Commission") held a public hearing on December 4, 2006 to consider an application from Douglas Development Corporation (the "Applicant") for consolidated review and approval of a planned unit development ("PUD") and related Zoning Map amendment. The application was filed on behalf of and with the consent of Jemal's Judge LLC, the owner of the property that was the subject of the application. The Commission considered the application pursuant to Chapters 24 and 30 of the District of Columbia Zoning Regulations, Title 11 of the District of Columbia Municipal Regulations ("DCMR"). The public hearing was conducted in accordance with the provisions of 11 DCMR § 3022. For the reasons stated below, the Zoning Commission hereby approves the application.

FINDINGS OF FACT

Application, Parties, and Hearing

1. On April 13, 2006, the Applicant filed an application with the Commission for consolidated review and approval of a PUD and related Zoning Map amendment for Lots 800, 859, 50, and 51 in Square 449, located at the northwest corner of the intersection of 6th and L Streets, N.W., in Washington, D.C. (the "Property"). The Property consists of 8,612 square feet of land and is located in the Downtown Development (DD) Overlay/R-5-B District.
2. At its public meeting held June 12, 2006, the Commission voted to schedule a public hearing on the application. At the meeting, the Commission requested that the Applicant provide additional information related to the color of materials for the James Essex House, the drainage for the new courtyard, and the project's design and impact on L Street.
3. On June 13, 2006, Advisory Neighborhood Commission 2C (the "ANC"), the ANC within which the property is located, filed a letter with the Commission stating the ANC voted to support the application at its meeting held June 7, 2006.

Z.C. ORDER NO. 06-21

Z.C. CASE NO. 06-21

PAGE 2

4. On August 3, 2006, the Applicant filed a prehearing statement with the Commission that included the information requested by the Commission as described in Finding of Fact 2 above. The prehearing statement also included a letter of support from the Mount Vernon Square Neighborhood Association.
5. After proper notice, the Zoning Commission held a hearing on the application on December 4, 2006 (the "Hearing"). The parties to the case were the Applicant and ANC 2C.
6. There were no parties or persons in opposition to the PUD.
7. At the conclusion of the Hearing, the Zoning Commission voted 5-0-0 to take proposed action to approve the application.
8. The proposed action of the Zoning Commission was referred to the National Capital Planning Commission ("NCPC") under § 492 of the District Charter. NCPC, by action dated December 28, 2006, found the proposed PUD would not affect the federal establishment or other federal interests in the National Capital or be inconsistent with the Comprehensive Plan for the National Capital.
9. The Zoning Commission took final action to approve the application on January 8, 2007.

The PUD Project

Overview

10. The proposed PUD is a residential development consisting of approximately 20 condominium units located at the northwest corner of the intersection of 6th and L Streets, N.W. in the Mount Vernon Square area. The project includes the rehabilitation of the historic James Essex House, which will house three dwelling units. To the west of the James Essex House, a three-story condominium apartment wing with a mezzanine will house five dwelling units. To the north of the James Essex House, a condominium apartment wing with the appearance of three bay-front Victorian homes on three lots on 6th Street will house twelve dwelling units. The dwelling units will contain a total of approximately 22,047 square feet of floor area. The site amenities will include a landscaped courtyard and below-grade parking. The Applicant will rehabilitate the historic James Essex House, remove the existing blight caused by the abandoned buildings currently on the Property, and provide additional housing in an area designated as a Housing Opportunity Area on the District's Generalized Land Use Policies Map. The Historic Preservation Review Board approved the conceptual design for the PUD on January 26, 2006.

Z.C. ORDER NO. 06-21

Z.C. CASE NO. 06-21

PAGE 3

Site Description

11. The Property consists of 8,612 square feet of land located at the northwest corner of the intersection of 6th and L Streets, N.W., and is more particularly described as Lots 800, 859, 50, and 51 in Square 449. It is improved with three abandoned buildings: the James Essex House, located at the corner of 6th and L Streets (Lot 800); a one-story rear addition to the James Essex House (Lot 800); and a one-story commercial building on 6th Street, on the north side of the James Essex House (Lot 859). Two vacant parcels on the north side of the commercial building are also part of the Property (Lots 50 and 51).
12. The District of Columbia Comprehensive Plan Generalized Land Use Map designates the Property in the medium-density residential category, where multiple-unit housing and mid-rise apartment buildings are the predominant uses. Also, the District of Columbia Generalized Land Use Policies Map includes the Property within the UDC/Mount Vernon Square Development Opportunity Area and the Mount Vernon Square Housing Opportunity Area. The current zoning for the Property is the Downtown Development (DD) Overlay /R-5-B District.
13. The Property is situated just north of the Central Employment Area and the Downtown Plan Area, as said areas are defined on the Generalized Land Use Policies Map. It is located within two blocks of the Mount Vernon Square Metrorail Station, located at M and 7th Streets, and within three blocks of the Convention Center, located between 7th and 9th Streets and N Street and New York Avenue.
14. The areas immediately north and east of the Property, along 6th and L Streets, are developed primarily with row houses. More intensive commercial uses are located to the south and west on L Street. The west side of 6th Street is primarily designated in the medium-density residential category on the Land Use Map. The east side of 6th Street and the north side of L Street are designated in the moderate-density residential land use category. The lots immediately south and west of the Property are designated in the high-density commercial land use category.
15. The Property is located within the Mount Vernon Square Historic District, which is bounded, generally, by New York Avenue on the south; 1st Street on the east; N Street between 1st and 5th Streets and M Street between 5th and 7th Streets on the north; and 7th Street on the west. This district includes approximately 420 properties, 408 of which are contributing buildings constructed between 1845 and 1945.

Project Design and Components

16. The overall design intent for the PUD is to develop an architectural solution that (i) is consistent in size, scale, massing, and architectural detailing with structures traditionally found in the Mount Vernon Square Historic District and, more specifically, along 6th Street; (ii) retains the James Essex House as a prominent architectural feature of the 6th

Z.C. ORDER NO. 06-21

Z.C. CASE NO. 06-21

PAGE 4

Street corner; and (iii) develops a façade for the infill additions along 6th Street and the western addition that will complement the historic façade of the James Essex House.

- a. James Essex House. The existing façade of the James Essex House will be restored to its original character in accordance with the guidelines established by the U.S. Department of Interior. This will include the repair and/or replacement of wood headers and sills, windows and doors, and the decorative cornice to their original character and quality. The existing masonry façade will be cleaned and tuckpointed as required. Site improvement details, such as lighting fixtures and railings, will also be designed to enhance the historic character of the house. The interior of the building will be renovated to include a 1- or 2-bedroom unit and two duplex-1-bedroom units.
- b. Western Addition on L Street. The western addition, to the rear of the James Essex House, will be accessed along L Street, through a landscaped courtyard. It will have below-grade parking accessible from L Street. The façade of this section of the project is designed in a modern style as a contrast to the historic façade of the James Essex House. The design elements include an all masonry façade with cast stone along the base and face brick above. The floor plan for the rear building consists of three – 1-bedroom units and two duplex – 1-bedroom units at the third level, which will include a bedroom on the mezzanine level overlooking a double height living space. Each of the five units in the western addition will have oversized metal clad windows with balcony projections toward the courtyard.
- c. Infill Units on 6th Street. The infill units along 6th Street will have an all masonry façade, projecting bays, and a strong cornice element with Victorian inspired gable projections at the roof line. This area of new construction will also have face brick with cast stone detailing, double-hung windows, and a raised stoop entry with transoms above all main entry doors. The brick detailing at the façade will include Flemish bond brick work and banding at projecting bays. A soldier course will be provided at the head of all third-story windows. This section of the project will contain six duplex – 1-bedroom units along the 6th Street face, three duplex – 1-bedroom units, and three efficiency units along the courtyard. The height of the row houses will be consistent with the adjacent structures on 6th Street.

Z.C. ORDER NO. 06-21
Z.C. CASE NO. 06-21
PAGE 5

Matter-of-Right Development Under Existing Zoning

17. The Property is located in the DD Overlay/R-5-B District.
18. The R-5-B District permits residential development of moderate height and density. The maximum permitted density is 1.8 FAR, and the maximum permitted lot occupancy is 60%. The maximum permitted building height is 50 feet.

Matter-of-Right Development Under Proposed DD/C-2-C District

19. The Applicant seeks a Zoning Map amendment in order to change the Property from DD Overlay/R-5-B District to the DD Overlay/C-2-C District.

C-2-C District

20. The maximum permitted height of a building in the C-2-C District is 90 feet. (11 DCMR § 770.1.) The maximum density permitted in the C-2-C District is 6.0 FAR, of which no more than 2.0 FAR may be for other than residential use. (11 DCMR § 771.2.) Under the Zoning Regulations, the maximum lot occupancy applicable to residential buildings within the C-2-C District is 80%. (11 DCMR § 772.1.)

PUD Area Requirements and Guidelines

21. Subsection 2401.1 of the Zoning Regulations establishes minimum area requirements for planned unit developments. Where, as here, a PUD-related map amendment is requested, compliance is based upon the zone district being requested.
22. Because the C-2-C District being requested is not among the Zone Districts specified in § 2401.1 (a) and (b), the default minimum requirement of 15,000 square feet applies.
23. The property that is the subject of this PUD application has a land area of 8,612 square feet, or 6,388 square feet less than required.
24. Nevertheless, § 2401.2 permits the Commission to waive not more than 50% of the minimum area requirement, or 7,500 square feet, provided:
 - a. the Commission shall find after public hearing that the development is of exceptional merit and in the best interest of the city or county; and
 - b. the Commission finds one of the following:
 - (1) if the development is to be located outside the Central Employment Area, at least 80% of the gross floor area of the development shall

Z.C. ORDER NO. 06-21

Z.C. CASE NO. 06-21

PAGE 6

be used exclusively for dwelling units and uses accessory thereto;
or

- (2) if the development is to be located in a portion of the Central Employment Area which is in an HR Overlay District, the development shall contain a minimum floor area ratio of 2.0 devoted to hotel or apartment house use.
25. The Commission finds that these elements have been met. The Commission finds that the proposed PUD is of exceptional merit and in the best interest of the District. The development includes the restoration of a deteriorated building that contributes to the Mount Vernon Square Historic District and will add housing in a location directly adjacent to Downtown. The Commission further finds that the development is outside the Central Employment Area, and at least 80% of the development's gross floor area is devoted exclusively to dwelling units and uses accessory thereto. In this development, 100% of the gross floor area is devoted to dwelling units and uses accessory thereto.
26. The maximum permitted building height for a PUD in the C-2-C District is 90 feet. (11 DCMR § 2405.1.) The maximum permitted density is 6.0 FAR, of which no more than 2.5 FAR can be devoted to non-residential use. (11 DCMR § 2405.2.) The proposed project has a 45-foot maximum height and a total density of 2.56 FAR, which is devoted entirely to residential use. Accordingly, the Commission finds the PUD project complies with PUD standards of § 2405 of the Zoning Regulations.

Development Incentives and Flexibility

27. The Applicant requested the following areas of flexibility from the Zoning Regulations:
- a. Lot Coverage. The Applicant proposes to have a lot occupancy of 100%, where a maximum of 80% is permitted. However, the lot occupancy of the PUD at the courtyard level is 86%.
 - b. Rear Yard. In lieu of a 15-foot rear yard, the Applicant proposes an 8-foot-wide court that functions as a light well between the rear building and the adjacent structure to the west.
 - c. Rear Court. The project is designed with an 8-foot-wide rear court where the Regulations require the court to have a minimum width of four inches per foot of height, measured from the lowest level of the court to that elevation; provided the court is not less than 15 feet in width.
 - d. Additional Areas of Flexibility. The Applicant also requests flexibility for the following:

Z.C. ORDER NO. 06-21

Z.C. CASE NO. 06-21

PAGE 7

- to vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, and mechanical rooms, provided that the variations do not change the exterior configuration of the building;
- to vary the final selection of the exterior materials within the color ranges and material types as proposed, without reducing the quality of the materials; and
- to make minor refinements to exterior details and dimensions, including curtain wall mullions and spandrels, window frames, glass types, belt courses, sills, bases, cornices, railings and trim, or any other changes to comply with the District of Columbia Building Code or that are otherwise necessary to obtain a final building permit.

Public Benefits and Amenities

28. The following benefits and amenities will be created as a result of the PUD:

- a. Housing and Affordable Housing. The single greatest benefit to the area, and the District as a whole, is the creation of new housing and home ownership opportunities consistent with the goals of the Zoning Regulations, the Comprehensive Plan, and the Mayor's housing initiative. The Applicant proposes to devote 982 square feet of the residential gross floor area for persons whose income does not exceed 80% of the Area Median Income.
- b. Historic Preservation. The Property is located within the Mount Vernon Square Historic District. The PUD project includes the rehabilitation of the James Essex House, which was constructed in 1855, and is prominently located at the northwest corner of 6th and L Streets, N.W. The exterior of the house, including the brick color, windows, and trim, will be restored to their original character, and the structure will house three of the twenty dwelling units proposed.
- c. Urban design, architecture, landscaping, and open space. The design of the project complements the historic character of the area. The streetscape and the new residential units will help to animate this area of the Mount Vernon neighborhood.
- d. Employment and training opportunities. In order to further the District of Columbia's policies related to the creation of employment opportunities, the Applicant will enter into a Memorandum of Understanding with the Department of Small and Local Business Development in an effort to utilize local, small, or disadvantaged business enterprises certified by the District of Columbia Local

Z.C. ORDER NO. 06-21

Z.C. CASE NO. 06-21

PAGE 8

Business Opportunity Commission in order to achieve, at a minimum, the goal of 35% participation in the contracted development costs in connection with the development of the project. The Applicant will also enter into a First Source Agreement with the Department of Employment Services ensuring cooperation with the Department for employee recruitment for jobs created by the PUD, with the objective that 51% of the employees hired in connection with the development of the PUD will be District of Columbia residents.

Compliance with the Comprehensive Plan

29. The project is consistent with major themes of the Comprehensive Plan, including the following major themes:
- Section 102 – Stabilizing and Improving District Neighborhoods
 - Section 108 – Preserving the Historic Character of the District
30. The project meets many of the goals and objectives of the Comprehensive Plan, as follows:
- a. The application is consistent with Chapter 3, Housing Element, of the Comprehensive Plan. The general objectives for housing are "... to stimulate production of new and rehabilitated housing to meet all levels of need and demand and to provide incentives for the types of housing needed at desired locations." (§ 302.1) At least one of the proposed dwelling units will be affordable, with the rest to be sold at market rate.
 - b. Chapter 7, Urban Design Element, outlines objectives and policies in support the Urban Design goal to "... promote the protection, enhancement, and enjoyment of the natural environments and to promote a built environment that serves as a complement to the natural environment, provides visual orientation, enhances the District's aesthetic qualities, emphasizes neighborhood identities, and is functionally efficient." (§ 701)
- 708 *Buildings*
- 708.2 (a) *Design residential, commercial, and all other buildings to complement or enhance the physical character of the District.*
- (b) *Design buildings to include the use of appropriate arrangements of building materials, height, scale, massing, and buffering to complement the immediate region.*

Z.C. ORDER NO. 06-21

Z.C. CASE NO. 06-21

PAGE 9

709 *Streetscape*709.2 (a) *Develop a unifying system of well-designed streets, sidewalks, parks, and pedestrian way.*(j) *Encourage the planting and maintenance of street trees as the single most important streetscape element along commercial and residential streets to provide shade, design continuity, spatial relief, and a juxtaposition of the natural and built environments.*710 *Areas of Strong Architectural Character*710.2 (d) *Encourage new development within areas of strong architectural character to contribute to the physical identity and character of those area.*(e) *Encourage building massing and scale of new development to be sensitive to established patterns.*712.1 *The areas in need of new and improved character objective are to encourage new development or renovation and rehabilitation of older structures in areas with vacant or underused land or buildings to secure a strong, positive physical identity.*712.2 *The policies established in support of the areas in need of new and improved character objective are as follows:*(a) *Encourage well-designed developments in areas that are vacant, underused, or deteriorated. These developments should have strong physical identities.*(b) *Encourage in-fill development of attractive design quality in deteriorated areas to stabilize the physical fabric and to encourage renovation and redevelopment.*

31. The application is consistent with the following objectives of the Ward 2 Plan:

- a. Section 1304 outlines objectives for housing, including: (a) *stimulate production of new and rehabilitated housing;* (b) *provide for the housing needs of... moderate-income households;* and (d) *encourage home ownership.*
- b. Section 1316.1 outlines the following objective for urban design: *The objective for urban design is to develop a quality design environment, combining old and new developments.*

Z.C. ORDER NO. 06-21

Z.C. CASE NO. 06-21

PAGE 10

- c. Section 1319 outlines objectives for preservation, including: *(b) To preserve and reuse historic... buildings in historic areas in Ward 2.*

Comprehensive Plan Generalized Land Use Map

32. The Generalized Land Use Map includes the Property in the medium-density residential land use category. Multiple-unit housing and mid-rise apartment buildings are the predominant uses. This land use category may also include low- and moderate-density housing. The application is consistent with this recommendation.
33. The Commission finds that the PUD is consistent with the Comprehensive Plan because (i) it supports major themes of the Comprehensive Plan, including *stabilizing and improving District neighborhoods and preserving the historic character of the District*; (ii) meets many of the goals and objectives of the Comprehensive Plan, including those in the Housing and Urban Design Elements; (iii) furthers objectives of the Ward 2 Plan; and (iv) is consistent with Generalized Land Use Map and the Draft Comprehensive Plan Future Land Use Map.

Office of Planning Report

34. By report dated November 24, 2006, the Office of Planning recommended approval of the PUD application on the basis that the project is not inconsistent with the elements of the Comprehensive Plan and with the provisions of Chapter 24, the design complements the historic character of the area and the streetscape, and the new residential units will help to animate this area of the Mount Vernon neighborhood.

Other Government Agency Reports

35. By report dated August 1, 2006, the District Department of Transportation (DDOT) stated that it has no objections to the PUD. In its report, DDOT noted that the Property is located one block from the Mount Vernon Square-Convention Center Metrorail Station on the Green and Yellow Lines and several Metro bus routes traverse near the site. The report also noted that the Applicant will provide 10 parking spaces compared to the 5 spaces required by the Zoning Regulations and a below-grade garage that is accessed from L Street. DDOT concluded that the project will have a minimal impact on traffic circulation in the area and satisfies the necessary parking requirements; however, the Applicant should coordinate with DDOT for public space improvements abutting the Property.

Findings to Support Waiver of Lot Area Requirement

36. The Commission finds that the PUD is of exceptional merit and is in the best interest of the District, because the project provides additional housing and affordable housing in the

Z.C. ORDER NO. 06-21

Z.C. CASE NO. 06-21

PAGE 11

Mount Vernon Square neighborhood, the project includes the preservation of a contributing structure in the Mount Vernon Square Historic District, the design and architecture of the project complements the historic character of the area, and the PUD will provide economic and employment opportunities for District residents and businesses. Also, the Commission finds that 100% of the gross floor area shall be used exclusively for dwelling units and uses accessory thereto. Thus, the Commission deems it appropriate to waive the minimum lot area requirement of 15,000 square feet and to permit the PUD to be developed on a lot of 8,612 square feet.

CONCLUSIONS OF LAW

1. Pursuant to the Zoning Regulations, the PUD process is designed to encourage high-quality development that provides public benefits. (11 DCMR § 2400.1.) The overall goal of the PUD process is to permit flexibility of development and other incentives, provided that the PUD project offers a commendable number or quality of public benefits, and that it protects and advances the public health, safety, welfare, and convenience. (11 DCMR § 2400.2.)
2. Notice of the public hearing was provided in accordance with the Zoning Regulations.
3. Under the PUD process of the Zoning Regulations, the Commission has the authority to consider this application as a consolidated PUD. The Commission may impose development conditions, guidelines, and standards that exceed or are less than the matter-of-right standards identified for height, FAR, lot occupancy, parking, loading, yards, or courts. The Commission may also approve uses that are permitted as special exceptions and would otherwise require approval by the Board of Zoning Adjustment.
4. The development of the PUD project will carry out the purposes of Chapter 24 of the Zoning Regulations to encourage the construction of well planned developments that offer a variety of building types with more attractive and efficient overall planning and design, not achievable under matter-of-right development.
5. As noted in Finding of Fact No. 23, the PUD Site contains less land area than the minimum required for a Planned Unit Development in a C-2-C zone district. For the reasons stated in Findings of Fact Nos. 24 through 26, the Commission concludes that the Applicant met has met its burden for obtaining a 43% waiver of that requirement pursuant to 11 DMCR § 2104.2.
6. The PUD, as approved by the Commission, complies with the applicable height, bulk, and density standards of the Zoning Regulations. Residential use is appropriate for the site. The impact of the project on the surrounding area is not unacceptable, and instead is favorable. Accordingly, the project should be approved.

Z.C. ORDER NO. 06-21

Z.C. CASE NO. 06-21

PAGE 12

7. The application can be approved with conditions to ensure that any potential adverse effects on the surrounding area from the development will be mitigated.
8. The Applicant's request for flexibility from the Zoning Regulations is consistent with the Comprehensive Plan. The project benefits and amenities are reasonable trade-offs for the requested development flexibility.
9. Approval of the PUD is appropriate, because the proposed development is consistent with the present character of the area and is not inconsistent with the Comprehensive Plan. In addition, the proposed development will promote the orderly development of the site in conformity with the entirety of the District of Columbia zone plan as embodied by the Zoning Regulations and Map.
10. The Commission is required under D.C. Official Code § 1-309.10(d)(3)(A) (2001 ed.) to give great weight to the issues and concerns of the affected ANC stated in its written recommendation dated June 13, 2006. The Commission has carefully considered the ANC's recommendation for approval and concurs in its recommendation.
11. The application for a PUD is subject to compliance with D.C. Law 2-38, the Human Rights Act of 1977.

DECISION

In consideration of the Findings of Fact and Conclusions of Law contained in this Order, the Zoning Commission for the District of Columbia orders **APPROVAL** of the application for consolidated review of a Planned Unit Development and related Zoning Map amendment from DD/R-5-B to DD/C-2-C for the Property located at the northwest corner of the intersection of 6th and L Streets, N.W., in Square 449, Lots 800, 859, 50, and 51. This approval is subject to the following guidelines, conditions, and standards:

1. The PUD shall be developed in accordance with the plans prepared by GTM Architects, entitled "Consolidated Planned Unit Development – 6th & L Street," April 12, 2006, and marked as Exhibit No. 4 of the record; as modified by Sheets A2.00 A2.01, A2.05, and A2.06, all dated August 2, 2006, and filed with the Zoning Commission on August 3, 2006, and marked as Exhibit No. 15 of the record; as modified by the guidelines, conditions, and standards herein.
2. The project shall be a residential development constructed to a maximum height of 46 feet and a density of 2.56 FAR.
3. Of the residential gross floor area for the project, a minimum of 982 square feet shall be devoted to affordable housing for residents whose income is no greater than 80% of the Area Median Income.

Z.C. ORDER NO. 06-21

Z.C. CASE NO. 06-21

PAGE 13

4. The PUD shall include a minimum of 10 parking spaces.
5. The Applicant shall have flexibility with the design of the PUD as follows:
 - a. To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, atriums, mechanical rooms, elevators, escalators, and toilet rooms, provided that the variations do not change the exterior configuration of the building;
 - b. To vary the final selection of the exterior materials within the color ranges and material types as proposed, based on availability at the time of construction, without reducing the quality of the materials; and
 - c. To make refinements to exterior materials, details, and dimensions, including belt courses, sills, bases, cornices, railings, roof, skylights, architectural embellishments, and trim or any other minor changes to comply with the District of Columbia Building Code or that are otherwise necessary to obtain a final building permit or any other applicable approvals.
6. Prior to the issuance of a building permit for the project, the Applicant shall enter into a First Source Employment Agreement with the Department of Employment Services in an effort to achieve the goal of utilizing District of Columbia residents for at least 51% of the jobs created by the PUD.
7. Prior to the issuance of a building permit for the project, the Applicant shall enter into a Memorandum of Understanding with the Department of Small and Local Business Development. Under the terms of the Memorandum of Understanding, the Applicant shall make a bona fide effort to utilize local, small, or disadvantaged business enterprises certified by the District of Columbia Local Business Opportunity Commission in order to achieve, at a minimum, the goal of 35% participation in the contracted development costs in connection with the development of the project.
8. No building permit shall be issued for the PUD until the Applicant has recorded a covenant in the land records of the District of Columbia, between the owner(s) and the District of Columbia, that is satisfactory to the Office of the Attorney General and the Zoning Division of the Department of Consumer and Regulatory Affairs ("DCRA"). Such covenant shall bind the Applicant and all successors in title to construct on and use the PUD Site in accordance with this Order or amendment thereof by the Zoning Commission.
9. The Office of Zoning shall not release the record of this case to the Zoning Division of DCRA until the Applicant has filed a copy of the covenant with the records of the Zoning Commission.

Z.C. ORDER NO. 06-21

Z.C. CASE NO. 06-21

PAGE 14

10. The PUD approved by the Zoning Commission shall be valid for a period of two years from the effective date of this Order. Within such time, an application must be filed for a building permit and construction of the project must start within three years of the date of the effective date of this Order pursuant to 11 DCMR §§ 2408.8 and 2408.9.
11. The Applicant is required to comply fully with the provisions the D.C. Human Rights Act of 1977, D.C. Law 2-38, as amended, D.C. Official Code § 2-1401.01 et seq. ("Act"). This Order is conditioned upon full compliance with those provisions. In accordance with the Act, the District of Columbia does not discriminate on the basis of actual or perceived: race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, familial status, family responsibilities, matriculation, political affiliation, disability, source of income, or place of residence or business. Sexual harassment is a form of sexual discrimination, which is also prohibited by the Act. In addition, harassment based on any of the above protected categories is also prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action. The failure or refusal of the Applicant to comply shall furnish grounds for denial or, if issued, revocation of any building permits or certificates of occupancy issued pursuant to this order.

On December 4, 2006, the Zoning Commission **APPROVED** the application by a vote of 5-0-0 (Carol J. Mitten, Anthony J. Hood, Gregory N. Jeffries, John G. Parsons, and Michael G. Turnbull to approve.)

This Order was **ADOPTED** by the Zoning Commission at its public meeting on January 8, 2007 by a vote of 5-0-0 (Carol J. Mitten, Anthony J. Hood, Gregory N. Jeffries, John G. Parsons, and Michael G. Turnbull to approve).

In accordance with the provisions of 11 DCMR § 3028, this Order shall become final and effective upon publication in the *D.C. Register*; that is on _____.

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF FILING
Z.C. Case No. 07-25
(Petition for a Map Amendment to Lots 18, 19, 877, 879, 895, 899, and 2001-2047 in Square 2794)
September 19, 2007

THIS CASE IS OF INTEREST TO ANC 4A

On September 13, 2007, the Office of Zoning received a petition from Scot Whittier, *et al.*, (the "Petitioner") for approval of a rezoning to the R-5-C Zone District, or in the alternative to the R-5-B Zone District, for Lots 18, 19, 877, 879, 895, 899, and 2001-2047 in Square 2794.

The property that is the subject of this application is located on the south side of Missouri Avenue, N.W., just west of 13th Street, in Ward 4. It consists of approximately 203,502 square feet of land that has frontage on Missouri Avenue and 14th Street.

For additional information, please contact Sharon S. Schellin, Secretary to the Zoning Commission at (202) 727-6311.

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